

So you've had an automobile accident, what's next?

Driving on California's highways can be a risky proposition. Whenever you're in a vehicle, there's a chance you'll be involved in a traffic accident. Whether it's a small fender bender or a major injury accident, knowing in advance what to do can help you avoid costly mistakes. This guide discusses what to do after an accident and what to expect when you file an automobile insurance claim with your insurance company. For your convenience, an "accident checklist" is contained herein which can be kept in your vehicle for future reference.

When purchasing insurance, carefully review the application before signing it to be certain that the coverages, policy limits, and deductibles suit your needs. After you receive the policy, review the declaration page. It contains important information on the covered insured and insured's vehicle, as well as the coverage limits, and deductibles. Make sure the information is correct and the coverage is what you ordered. If changes are needed, send your request to your agent and/or insurance company in writing and keep a copy. Use certified mail/return receipt requested to verify receipt of your letter.

Become familiar with your automobile insurance policy before it's needed. Read the policy thoroughly so you know what is covered and what is excluded.

Some of the most frequently asked questions about automobile insurance claims are discussed below:

WHAT TO DO IF THERE IS AN ACCIDENT

Q. What should I do at the scene of an accident?

A. Immediately **stop** at the scene.

- If there are injuries, call 911, the paramedics.
- Call the police. In some areas, police authorities may not come to every accident scene. They may consider factors such as the severity and location of the accident, e.g., some police authorities will not come to the scene if the accident is on private property. However, you should attempt to notify the police. You should also be aware that most policies require notification of police within a specified time period if the accident is a hit and run.
- Obtain names, addresses, telephone numbers, and driver's license numbers from all drivers.
- Obtain license plate(s) and vehicle identification numbers. Ask to see driver's license(s) and vehicle registration(s) to verify that the information is accurate.
- Obtain names, addresses, and telephone numbers of other passengers and any witnesses.
- If you have a camera, take photographs of the damage, the position of the cars, and the accident scene, e.g., traffic controls, visual obstacles.
- If the owner of a damaged car or damaged property cannot be located, leave a note with the names and addresses of the drivers and owners of the involved cars.
- Notify your agent and/or your insurance company immediately.
- If anyone is injured or the vehicle damage exceeds \$500.00, you must report the accident to the Department of Motor Vehicles within 10 days. Failure to notify the DMV may result in the suspension of your driver's license.

THINGS TO AVOID

- Do not argue with other drivers and passengers. Save your story for the police and your insurance company.
- Do not sign statements regarding fault or promises to pay for damage.
- If another party offers to pay your deductible, don't sign anything releasing him or her from further responsibility. By releasing the other party, you jeopardize your insurance company's subrogation right, and the company may refuse to pay for damage to your car.

FREQUENTLY ASKED QUESTIONS

Q. What happens after I file the claim with my insurance company?

A. Your insurance company will contact you for additional information, such as a detailed account of the facts, or a written or recorded statement. An examination under oath may be requested. As part of the investigation, other drivers and witnesses may be contacted. If you have medical payments or uninsured motorist claims, you must provide documentation of your injuries, medical expenses, lost wages, etc.

Q. What should I do if the insurance company does not contact me?

A. A claim representative should contact you within a reasonable period, usually 24-72 hours after you report the loss. If you do not hear from anyone, call your agent or insurance company for assistance. If they are not responsive, or you believe there is an unreasonable delay in settling your claim, contact the Department of Insurance.

Q. How does the insurance company evaluate vehicle damage?

A. An adjuster or appraiser usually inspects the vehicle. Do not authorize repairs until the adjuster has inspected the vehicle and you are satisfied with the scope of repairs and the repair facility.

If the damage is relatively minor, the company may instead ask you to submit competitive repair estimates.

Q. What will the company pay on a physical damage claim under a standard auto policy?

- A. Generally, the company will pay the lesser of:
- The amount necessary to repair the vehicle.
 - The actual cash value (ACV) of the vehicle.

Read your policy to be certain of what **is** and **isn't** covered.

Pay particular attention to exclusions. For example, there is usually no coverage for sound reproduction equipment, a telephone, or a citizens band radio unless the equipment was permanently installed by the automobile manufacturer in the normal opening in the dash or console. Coverage is usually available for such special equipment for an extra premium charge.

Q. What is Actual Cash Value (ACV)?

- A. Actual cash value means the fair market value of your car before the accident. This is the price that a willing buyer would pay a willing seller, neither under pressure to sell or buy.

Your company may survey dealers, value guide books, and private parties for a similar vehicle to approximate the ACV. A computerized market analysis system might also be used.

If you do not agree with your company's figure for ACV, you may want to do your own survey of dealers and private party sellers in your area. Companies are required to offer a fair settlement. If you can show that your figure more closely approximates the ACV, your company should be willing to negotiate. Your policy may also contain an appraisal provision.

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Q. What is an appraisal provision?

A. Most standard policies contain an appraisal provision, which can be helpful in the event that you do not agree with your company on the amount of loss. Read your policy to see if it contains one.

Under this provision, either of you can demand an appraisal. Each party selects a competent appraiser. The appraisers then select an umpire. If the appraisers cannot agree on the amount of loss, their differences are submitted to the umpire. An amount that any two agree upon is binding. Each party pays its appraiser; the umpire fee is shared.

Q. How is the check or draft prepared?

A. The check may be made payable to the insured and any lienholder, such as a bank or finance company. If the vehicle is repaired, the company may also include the repair facility as a payee.

Q. Who is responsible for the balance of a car loan?

A. The borrower is responsible for the balance of the loan, even if the vehicle is stolen or damaged beyond repair. If your claim payment is less than the loan balance, the lender will expect you to pay the difference.

Q. Will the company pay for a rental car while mine is being repaired?

A. Yes, if you have purchased rental vehicle coverage. Review your policy before you rent a vehicle. Although policy limits vary, the company pays up to a specified amount per day for a specified number of days. The coverage ends when your vehicle is repaired, the loss is paid, or after the specified period, whichever comes first.

If your vehicle is stolen, the policy may automatically provide transportation expenses. Again, review your policy to be sure. This type of coverage usually begins 48 hours after the theft and ends when your vehicle is recovered, the loss is paid or after a specified period, whichever comes first.

Q. What is a collision damage waiver and will the company pay these charges for the rental vehicle?

A. The terms of the rental agreement make the customer responsible for collision damage while he or she has possession of the vehicle. Additionally, rental companies insure themselves for damage to the vehicle caused by collision. For an additional fee, the rental company will waive all or a portion of the customer's obligation to pay repair costs for damage to the vehicle caused by collision. Both the amount of the fee and the language of the waiver vary.

Coverage for collision damage to the rental car under your personal automobile policy depends upon the policy language. Read your policy carefully. Ask your agent or company before you rent a vehicle.

Q. What is the salvage value?

A. This is the remaining value of your damaged vehicle if your vehicle is determined to be a total loss. It is usually determined through bids from salvage buyers. The company may sell the salvage to the highest bidder. However, it is not obligated to do so. If you decide to keep the damaged vehicle, the highest salvage bid may be deducted from your settlement. In effect, you are "buying back" your vehicle for the salvage value. If you retain possession of the salvaged vehicle, it is your responsibility to file a salvage certificate with the Department of Motor Vehicles.

Q. What is subrogation?

A. Subrogation is the right of the insurance company to recover from a third party the amount of damages it paid to you. For example, if another party is at fault in an accident that damages your car, and you have a collision claim, your company will ask the other party to reimburse the money it paid on your claim. The policy requires your cooperation with the company's subrogation efforts. Also, you cannot do anything that jeopardizes the company's right of recovery. For example, you cannot sign an agreement releasing the other party in exchange for payment of your deductible.

Q. Is the company required to help me recover my deductible?

A. Yes and no. The insurance company must advise you as to whether or not they intend to pursue subrogation. If the company pursues subrogation, they are required to include your deductible as a part of such pursuit. However, if the company does not pursue subrogation they are required to advise you of that fact so that you may pursue your deductible on your own. If their efforts are successful, in whole or in part, the company will reimburse you in accordance with the recovery. For example, if 100 percent of the paid claim is recovered, you will receive 100 percent of your deductible; if the recovery is 65 percent, you will receive 65 percent of your deductible. Any expenses or fees, e.g., legal fees, incurred by the company in its recovery efforts will be apportioned between the company and you, if recovery is made. However, if you choose not to have the company include your deductible in its efforts, you can seek recovery directly from the other party on your own. But before you do, discuss the matter with your company to avoid jeopardizing its recovery.

Q. Is the car covered outside of California?

A. Most policies provide coverage in other states, U.S. territories and possessions, and Canada. As is the case in California, many other states and territories have enacted financial responsibility laws requiring drivers to carry a specified amount of automobile insurance to cover losses resulting from ownership or operation of a motor vehicle. If the financial responsibility requirements where you are traveling are higher than your policy limits, your company will meet the higher requirements. Most policies do not provide coverage in Mexico, so if you plan to drive your car there, it's wise to buy that coverage separately. Check your out-of-state coverage *before* you *travel*. California's financial responsibility law is set forth commencing with Section 16020 of the California Vehicle Code. Among other things, it requires all drivers to be able to pay damages resulting from ownership or operation of a motor vehicle. Drivers must show ability to pay damages (called financial responsibility) of at least \$15,000 for each person injured or killed in an accident, of at least \$30,000 for injury/death to two or more persons in one accident, and of at least \$5,000 for property damage from any one accident. If you are cited by a peace officer for any moving violation, or are involved in an accident, you may be asked for written proof of financial responsibility. This can be done by recording the name of your insurance company and policy number on the vehicle registration card issued by DMV. This proof of insurance should be kept in the vehicle or in the driver's wallet or purse so it will be available when driving any car. For further information, contact the CA Department of Motor Vehicles.

Q. What should be done if a lawsuit (summons and complaint) arises out of an accident?

A. Notify your agent and insurance company immediately. Keep a copy for yourself and mail or deliver the original documents to your company. Do not give statements or discuss the accident with anyone except a verified representative of your company. If the lawsuit arises out of a covered loss, your company will provide legal defense.

Q. Is a newly acquired vehicle covered?

A. Most policies provide automatic coverage for a vehicle that replaces a vehicle already on your policy. The coverage normally is the same coverage you had on your previous vehicle. If you wish additional coverage, there is usually a requirement that you notify your agent or your company within a designated time period.

Most policies also provide automatic coverage for a newly acquired vehicle that is an addition to the vehicles you already have on your policy. There are usually specific conditions that must be met. For example, the purchased vehicle must be reported to your agent or company within a designated time period, e.g., to your agent or company within a designated time period, e.g., 30 days, or there may be a requirement that in order for coverage to automatically apply, all of your other owned vehicles must be insured with the company.

IMPORTANT TIPS

1. Read your policy now. Don't wait until after an accident.
2. If you don't understand your policy, ask your agent and/or company for clarification.
3. If you have an accident, call the police. If there are injuries, call paramedics.
4. Get as much information as possible at the accident scene to furnish to your agent and/or insurance company.
5. Immediately notify your agent and/or insurance company of an accident.

6. Cooperate with the insurance adjusters/investigators to aid in their efforts.
7. If you don't understand something about the claims procedure (e.g., amount of settlement offer), ask your agent and/or insurance company representative to explain.
8. Notify your agent or company in writing of any change in your vehicle ownership.

Your Rights Under the Fair Claims Settlement Practices Regulations

In general, insurance companies are required to do the following:

- Advise you of all benefits, coverage, time limits or other provisions of your insurance policy.
- Acknowledge claim, start investigation, provide forms and instructions, and provide reasonable assistance immediately but in no event later than 15 days after receiving notice of claim (Notice of claim is: any written or oral communication to the insurance company which reasonably apprises the insurer that you wish to make a claim).
- Respond to communications received from you immediately but in no event later than 15 days.
- Accept or deny the claim immediately but in no event later than 40 days after receiving proof of claim (Proof of claim is: documentation in your possession which provides any evidence of the claim and supports the magnitude or the amount of the loss such as estimates of repair or police report indicating theft of your vehicle, etc.).
- Unless the insurer has provided you with the name of a specific towing company prior to your using a towing facility, the insurer must pay reasonable towing expenses.

- Offer a fair settlement. If you suffered a total loss, settlement must include taxes, license and transfer fees. The settlement must reflect the value of a comparable vehicle of like kind and quality. If you retain the salvage, deductions from the settlement for salvage must be fair, measurable and discernable.
- Once the claim has been accepted, the insurer must pay the claim immediately but in no event later than 30 days from date settlement was reached.
- Advise you whether or not they will pursue subrogation. If the insurance company pursues subrogation, they must include your deductible unless you have recovered your deductible.

The above represents a paraphrased brief overview of some of the Fair Claims Settlement Practices Regulations effective 5/10/97. You may view a complete copy of the Regulations by visiting our CDI website located at www.insurance.ca.gov.

Automobile Insurance Fraud

Red Flags

Automobile insurance fraud in California historically has taken several forms. The most common fraud schemes involve automobile property and automobile accidents.

Automobile Property - This type of fraud most often involves dishonest auto body and repair shops and/or insureds who may employ a variety of illegal or questionable techniques including:

- Reporting parts of vehicles as damaged or lost when in fact they were not damaged or lost prior to the shop receiving the vehicle.
- Making final cost in excess of the original estimate of damage.
- Billing for repairs that were not authorized.
- Charging for genuine parts when aftermarket or used parts from a junkyard were used.
- Pounding out dents or using bondo when charging for brand new auto parts.
- Falsely reporting stolen vehicles or vandalism of vehicles in order to collect insurance monies.

It is always important for the consumer to review carefully all paper work from auto body and repair shops in order to protect against potential fraud. Also, consumers should be cautious of any auto body or repair facility that makes referrals to medical or legal offices. This practice may be an indicator of “capping.” Capping (a felony in California) is the illegal referral of clients to legal offices for a fee.

Automobile Accidents - Automobile fraud often involves organized auto accident rings. Staged auto accidents, which are not accidents at all, follow several basic schemes including:

- Suddenly stopping for no apparent reason
- Intentionally disregarding the right-of-way
- Giving up the right-of-way in order to cause an accident
- Claims report list passengers who were not in the vehicle at the time of the accident
- Witnesses are listed who were not at the scene of the accident
- Injuries claimed are excessive compared to vehicle damage
- Driver has a temporary vehicle registration
- Prior damage to the other vehicle
- Contact by an attorney without being solicited

If you have been in an auto accident, be cautious of any unsolicited referral to a body shop, law office or medical office. Organized accident rings and cappers actively solicit others in the community to participate in the creation of accidents. Often these accidents only exist on paper (referred to as paper accidents), and no innocent parties are involved. Paper accidents have gained in popularity among fraud perpetrators, as they are less dangerous from a bodily injury standpoint, and there is less likelihood of police involvement.

Auto Body Repair Shops

Under California insurance regulations, an insurance company cannot require that an automobile be repaired at a specific repair shop. However, an insurance company can recommend that an automobile be repaired at a specific repair shop under certain conditions:

- If an insurance company recommends a particular repair shop, it must do so in writing.
- The written disclosure must inform the consumer of the right to select the repair shop.

- If a consumer agrees to use an insurance company recommended repair shop, the insurance company must restore the damaged vehicle to its condition prior to the accident or loss.
- The insurance company must stand behind the repairs if the vehicle is not repaired properly by the recommended auto repair shop.
- A consumer cannot be required to travel an unreasonable distance to obtain a repair estimate or to have an automobile repaired at a specific repair shop.

If the vehicle is repaired in a shop chosen by the consumer, the insurance company must pay the reasonable costs to repair the vehicle in a workmanlike manner. If the consumer's chosen shop charges more than the reasonable costs, the consumer may be responsible for these additional expenses.

Auto Replacement Parts

In some cases an auto repair may include replacement of damaged parts with aftermarket parts. Aftermarket parts are parts which are not made by the original manufacturer. Aftermarket parts may be equal, better, or worse in quality than original equipment manufacturer parts. Consumers should take note of the following:

- An auto repair shop is required to provide a written repair estimate of the cost of repairs prior to initiating repairs to the vehicle. Once the work is completed, the shop must then provide a written repair invoice. State law requires that the type of auto parts used in repairs must be identified on the repair invoice. Consumers should carefully check their invoice to ensure that the auto body shop has identified each auto part replaced as being used, reconditioned, rebuilt an original equipment manufacturer part, or an aftermarket part.